IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

**ORDER**
IN
**S.B. Civil Second Appeal No.458/2005**

Ram Gopal S/o Shri Bhanwar Lal
...defendant-appellant
**Versus**
Maharaj Kumar Ranjeet Singh & Another
...plaintiff-respondents

**Date of Order ::: 28.11.2006**

Present
**Hon'ble Mr. Justice Narendra Kumar Jain**

Shri Kamlakar Sharma, Counsel for defendant-appellant
Shri Sudarshan Laddha, Counsel for plaintiff-respondents

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**By the Court**:-

Heard learned counsel for the parties.

The plaintiff-respondents filed a suit for eviction in respect of the rented shop, which was decreed by the lower court on the ground of default in making the payment of monthly rent. The judgment and decree passed by the lower court has been affirmed by the first appellate court also.

There is no dispute in between both the parties that the rent was determined by the lower court under Section 13 (3) of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950, but the same was not paid by the defendant-appellant, resulting in striking down the defence of the defendant. However, it was left open for the defendant to prove that the shop was

not rented out at the rate of Rs.250/- per month. The dispute in between both the parties in the present case is about the actual rate of rent - whether the rented shop was let out at the rate of Rs.250/- per month or at the rate of Rs.40/- per month.

The learned both the courts below have relied upon the document Exhibit-1, the receipt of rent for the month of November, 1987 as well as the rent-note dated 1.11.1987, wherein the rate of monthly rent has been mentioned as Rs.250/-. Both the courts below have relied upon the documents, referred above, and have recorded a finding that the disputed shop was rented out at the rate of Rs.250/-, per month. What is the rate of monthly rent of the disputed shop, is purely a question of fact and there is concurrent finding of fact by both the courts below, which cannot be interfered with by this court in second appeal under Section 100 of the Code of Civil Procedure.

No substantial question of law is involved in this second appeal and the same is accordingly dismissed at admission stage itself with no order as to costs.

**(Narendra Kumar Jain) J.**

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